

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

E.M.,

Plaintiff,

v.

KILOLO KIJAKAZI,

Defendant.

Case No. 20-cv-02272-JCS

**ORDER GRANTING THIRD
STIPULATION TO EXTEND TIME
FOR COMMISSIONER’S MOTION**

Re: Dkt. Nos. 40

This case was filed on April 3, 2020, approximately a year and a half ago. Defendant the Commissioner of Social Security did not file the administrative record (dkt. 27) until April 13, 2021, more than a year after the case was filed, and only after the Court granted in part an opposed fourth request for an extension of that deadline on the condition that a senior official would be required to appear at a sanctions hearing if the record was not filed as ordered. *See* dkt. 24.

Plaintiff E.M. filed his motion for summary judgment on June 14, 2021. Dkt. 32.¹ In granting a second stipulation to extend time for the Commissioner’s motion, which set a deadline of September 29, 2021, the Court advised the parties that “[n]o further extensions of this deadline will be granted as a matter of course,” and that “[i]f the Commissioner needs additional time, the parties may request a case management conference to discuss a feasible case schedule.” Dkt. 39.

Tina Naicker, counsel for the Commissioner has since faced exigent circumstances due to serious family health issues over the past two weeks. Rather than request a case management conference as required by the previous order, however, the parties waited until the day the Commissioner’s motion was due to file a stipulation for a further one-week extension. Dkt. 40.

¹ E.M.’s statement of the administrative record was not filed until June 25, 2021.

1 As with the final request for an extension of time to file the administrative record, the
2 timing of this request leave the Court little choice between granting it (despite the previous order
3 to the contrary) or imposing fairly severe consequences. Notwithstanding the parties' failure to
4 follow the Court's previous order, Naicker's family obligations are sufficient grounds for a further
5 extension. Naicker's workload, with more than seventy-five active cases and more than three
6 dispositive motions due per week, also raises concerns as to her ability to meet this and other
7 deadlines.

8 The stipulation is GRANTED, and the Commissioner's motion and statement of the
9 administrative record shall be filed no later than October 6, 2021. If that deadline is not met,
10 however, the Court will require Regional Chief Counsel Deborah Stachel to appear for a case
11 management conference to discuss a feasible schedule.

12 **IT IS SO ORDERED.**

13 Dated: September 30, 2021

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16 JOSEPH C. SPERO
17 Chief Magistrate Judge
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